

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER BECKER,

Petitioner,

v.

WARDEN,

Respondent.

Case No. 1:21-cv-01129-EPG-HC

ORDER GRANTING PETITIONER LEAVE  
TO AMEND

ORDER DIRECTING CLERK OF COURT  
TO SEND PETITIONER BLANK § 2241  
FORMS

Petitioner Christopher Becker is a federal prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

**I.**

**DISCUSSION**

The Rules Governing Section 2254 Cases<sup>1</sup> (“Habeas Rules”) require preliminary review of a habeas petition and allow a district court to dismiss a petition before the respondent is ordered to file a response, if it “plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.” Rule 4, Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

Habeas Rule 2(c) states that a petition must “(1) specify all the grounds for relief available to the petitioner; [and] (2) state the facts supporting each ground.” Petitioner must state his claims with sufficient specificity. See McFarland v. Scott, 512 U.S. 849, 856 (1994);

<sup>1</sup> The Court may apply any or all of these rules to habeas corpus petitions that are not brought under 28 U.S.C. § 2254. Rule 1(b), Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

1 Hendricks v. Vasquez, 908 F.2d 490, 491–92 (9th Cir. 1990). “A prime purpose of Rule 2(c)’s  
 2 demand that habeas petitioners plead with particularity is to assist the district court in  
 3 determining whether the State should be ordered to ‘show cause why the writ should not be  
 4 granted.’” Mayle v. Felix, 545 U.S. 644, 656 (2005) (quoting 28 U.S.C. § 2243).

5 In Ground One, Petitioner asserts that pretrial detainees cannot be subjected to anything  
 6 amounting to punishment. In support of this claim, Petitioner states that a Federal Bureau of  
 7 Prisons (“BOP”) disciplinary hearing officer disallowed good conduct credit for an incident  
 8 while Petitioner was a pretrial detainee in the custody of the United States Marshal Service.  
 9 (ECF No. 1 at 2–3).<sup>2</sup> Although pretrial detainees “may not be punished prior to an adjudication  
 10 of guilt,” “[n]ot every disability imposed during pretrial detention amounts to ‘punishment’ in  
 11 the constitutional sense.” Bell v. Wolfish, 441 U.S. 520, 536, 537 (1979). For example, “pretrial  
 12 detainees may be subjected to punishment for violations of prison rules or policies as long as  
 13 they are provided a due process hearing.” Davis v. Penzone, 795 F. App’x 1008, 1009 (9th Cir.  
 14 2020) (citing Mitchell v. Dupnik, 75 F.3d 517, 524 (9th Cir. 1996)); accord Dupnik, 75 F.3d at  
 15 524 (“[P]retrial detainees may be subjected to disciplinary [sanctions] only with a due process  
 16 hearing to determine whether they have in fact violated any rule.”). That Petitioner was  
 17 disallowed good conduct credit for an incident while he was a pretrial detainee, without more,  
 18 does not state a due process claim.

19 In Ground Two, Petitioner asserts that BOP employees violated Petitioner’s right to due  
 20 process by denying him access to an administrative remedy when he requested an administrative  
 21 remedy in writing. (ECF No. 1 at 3). However, “inmates lack a separate constitutional  
 22 entitlement to a specific prison grievance procedure.” Ramirez v. Galaza, 334 F.3d 850, 860 (9th  
 23 Cir. 2003) (citing Mann v. Adams, 855 F.2d 639, 640 (9th Cir. 1988)). Therefore, challenges to  
 24 the adequacy of the administrative remedy procedure or the disposition of Petitioner’s grievance  
 25 fail to state a due process claim. See Garcia v. Seeley, No. 19-56128, 2021 WL 1753815, at \*1  
 26 (9th Cir. May 4, 2021) (holding that prisoner “did not plausibly allege violation of his right to  
 27 due process because prisoners do not have a liberty interest in a particular grievance procedure”);

28 <sup>2</sup> Page numbers refer to ECF page numbers stamped at the top of the page.

1 Yoon v. Arnett, 385 F. App'x 666, 668 (9th Cir. 2010) (holding that “the district court properly  
2 dismissed any due process claim [prisoner] sought to allege based on defendants’ alleged failure  
3 to respond to, and interference with, [prisoner]’s administrative grievances, because he has  
4 no due process right to the handling of grievances in any particular manner”).

5 As the petition fails to state a cognizable claim for federal habeas relief, it should be  
6 dismissed. However, a petition for habeas corpus should not be dismissed without leave to  
7 amend unless it appears that no tenable claim for relief can be pleaded were such leave granted.  
8 Jarvis v. Nelson, 440 F.2d 13, 14 (9th Cir. 1971). Therefore, the Court will grant Petitioner an  
9 opportunity to file an amended petition.

10 **II.**

11 **ORDER**

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Petitioner is GRANTED leave to file a first amended petition within **THIRTY (30) days**  
14 of the date of service of this order; and  
15 2. The Clerk of Court is DIRECTED to send Petitioner blank § 2241 habeas forms.

16 Petitioner is forewarned that failure to follow this order may result in a recommendation  
17 for dismissal of the petition pursuant to Federal Rule of Civil Procedure 41(b) (a petitioner’s  
18 failure to prosecute or to comply with a court order may result in a dismissal of the action).

19  
20 IT IS SO ORDERED.

21 Dated: **August 10, 2021**

22 /s/ Eric P. Grogan  
UNITED STATES MAGISTRATE JUDGE